

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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3 CARL J. KUNASEK  
4 Chairman  
5 JIM IRVIN  
6 Commissioner  
7 WILLIAM A. MUNDELL  
8 Commissioner

9 In the matter of )  
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DOCKET NO. S-03264A-00-0000  
**NOTICE OF OPPORTUNITY FOR  
HEARING REGARDING PROPOSED  
ORDER FOR RELIEF**

MARY KERSEY  
7979-32 East Princess Drive  
Scottsdale, Arizona 85255,

Respondents.

12 **NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING**

13 For its proposed order for relief, the Securities Division (the “Division”) of the Arizona  
14 Corporation Commission (the “Commission”) alleges that respondents, singularly and in concert, have  
15 engaged in acts, practices and transactions, which constitute violations of A.R.S. § 44-1801 *et seq.*, the  
16 Securities Act of Arizona (the “Securities Act”).

17 The Division alleges as follows:

18 **I.**

19 **JURISDICTION**

20 1. The Commission has jurisdiction over these matters pursuant to Article XV of the  
21 Arizona Constitution and the Securities Act.

22 **II.**

23 **RESPONDENTS**

24 2. SUCCESSFUL FINANCE, INC. (“SFI”) is an Arizona corporation located at 2200 North  
25 Scottsdale Road, Suite R, Scottsdale, Arizona 85257.

1           3.     Mary Kersey, aka Mary Kerseyhood, aka Mary L. Hood, aka Mary Kersey-Hood  
2     ("KERSEY"), is an Arizona resident whose last known address is 7979-32 East Princess Drive,  
3     Scottsdale, Arizona 85255.

4           4.     The respondents may be collectively referred to as "RESPONDENTS."

5                               **III.**

6                               **FACTS**

7           5.     SFI and KERSEY are not registered as securities dealers with the Commission.  
8     KERSEY was registered as a securities salesman with the Commission, beginning on November 8,  
9     1988. From May 31, 1995 through January 11, 1996, KERSEY was affiliated with Finance 500, Inc.  
10    Her Arizona registration terminated on January 11, 1996, when she left that firm.

11           6.     In 1995, KERSEY incorporated SFI. Her son, Barton Kersey, was listed as president.

12           7.     Beginning in June 1995, SFI, through its agent, KERSEY, offered promissory notes or  
13    investment contracts for sale to the public. SFI, though KERSEY, obtained at least \$500,000 from eight  
14    investors. The majority of the offered promissory notes or investment contracts were held in Individual  
15    Retirement Accounts ("IRAs") at the First National Bank of Onaga ("FNB"), located in Onaga, Kansas.

16           8.     KERSEY initially solicited clients of her securities business. KERSEY told the investors  
17    that the investment was safe, fully secured and guaranteed. She told at least one investor that the  
18    investment was secured by real estate.

19           9.     SFI and KERSEY did not provide any prospectus or written documents to investors prior  
20    to their investment. SFI and KERSEY did provide written promissory notes to five of the investors who  
21    invested through their IRAs, as FNB, the custodian of the IRAs, required promissory notes and corporate  
22    authorizations prior to authorizing the investment and releasing the funds to SFI. The notes were signed  
23    with the name of Barton Kersey as president of SFI, although KERSEY was aware at the time she sent the  
24    notes to FNB that Barton Kersey had not signed them.

25           10.    The SFI corporate authorization was signed with the names of KERSEY, Barton Kersey  
26    and Todd Allen. Todd Allen was also a son of KERSEY. KERSEY herself signed all three signatures.

1 The notes were prepared by KERSEY. They stated that the offered promissory notes or investment  
2 contracts were secured by a first position on assets owned by Barton Kersey and SFI. A financial  
3 statement listing SFI's assets was attached to the notes. At the time the notes were sent to FNB for  
4 acceptance, the SFI financial statement listed \$896,700 in assets. That information was false, other than  
5 an automobile owned by Barton Kersey which was valued at \$15,000. The remaining assets did not exist.  
6 At the time the financial sheet was created, showing \$896,700 in assets, the SFI annual report filed with  
7 the Commission listed \$65 in assets.

8  
9 11. For those investors who did not invest through their IRA accounts, SFI and KERSEY  
10 did not provide promissory notes. KERSEY informed those investors that the investment was safe and  
11 secured. She told them that they would receive eleven percent interest. She provided no written  
12 documentation, no prospectuses or financial statements to these investors.

13 12. All funds raised by SFI and KERSEY were deposited in SFI's bank account where they  
14 were controlled and utilized by KERSEY.

15 13. SFI and KERSEY used the money they raised to invest in to two companies, Austin Oil  
16 and Worldlink. \$25,000 was invested with Austin Oil, while the remainder went to Worldlink. All  
17 investments in both companies were lost. The investment decisions were made by KERSEY.

18 14. Part of the funds raised by SFI and KERSEY were used to purchase a house in  
19 Scottsdale. The house was titled in KERSEY's name, although the funds came from SFI. A friend of  
20 KERSEY's, the principal of Worldlink, then inhabited the house. The house was then sold by  
21 KERSEY, who used the proceeds to pay off one of the investors, giving him \$40,000. No other  
22 investor has received any of his or her investment back.

23 15. Despite their representations to the investors, SFI and KERSEY never obtained any  
24 security or collateral from Austin Oil or Worldlink prior to providing them with funds. SFI and KERSEY  
25 received no written documents from Austin Oil or Worldlink prior to providing them with funds.  
26

16. The investors received some of the scheduled interest payments on their investment. SFI and KERSEY used money raised from later investors to pay interest to the earlier investors. No disclosure of this was made to any of the investors.

17. Despite lacking securities registration since January 11, 1996, KERSEY has continued to solicit orders or offer to sell securities without being registered. Her clients purchased and sold securities based upon KERSEY's solicitations or offers, unaware that she was not registered to sell securities.

#### IV.

## VIOLATION OF A.R.S. § 44-1841

**(Offer and Sale of Unregistered / Unauthorized Securities)**

18. From on or about June 1, 1995, RESPONDENTS offered and/or sold securities in the form of promissory notes and/or investment contracts, within and/or from Arizona.

19. The securities referred to above were not registered under A.R.S. §§ 44-1871 through 44-1875, or 44-1891 through 44-1902; were not securities for which a notice filing has been made under A.R.S. § 44-3321; were not exempt under A.R.S. §§ 44-1843 or 44-1843.01; were not offered or sold in exempt transactions under A.R.S. § 44-1844; and were not exempt under any rule or order promulgated by the Commission.

20. This conduct violates A.R.S. § 44-1841.

**V.**

## VIOLATION OF A.R.S. § 44-1842

**(Transactions by Unregistered Dealers and Salesmen)**

21. In connection with the offers to sell and the sale of securities, RESPONDENTS acted as dealers and/or salesmen within and/or from Arizona. SFI was not registered pursuant to the provisions of Article 9 of the Securities Act. KERSEY was not registered pursuant to the provisions of Article 9 of the Securities Act from January 11, 1996, onward.

22. This conduct violates A.R.S. § 44-1842.

**VI.****VIOLATION OF A.R.S. § 44-1991****(Fraud in Connection with the Offer and Sale of Securities)**

23. In connection with the offer and sale of securities within or from Arizona, RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; and (iii) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes, but is not limited to, the following:

- a) Failing to disclose to investors that SFI was controlled by KERSEY and that her son, Barton Kersey, was its president;
  - b) Informing investors that their investment with SFI was safe, secured, collateralized and guaranteed;
  - c) Utilizing the investors' funds to invest in speculative and unsecured investments while failing to inform investors as to that use of their funds;
  - d) Failing to inform investors that some of their funds were used to purchase a house in KERSEY's name and that the house was inhabited by a friend;
  - e) Failing to inform investors that SFI and KERSEY had no written documentation from Worldlink, the company to which SFI and KERSEY gave most of the investor's money;
  - f) Informing at least one investor that the investment was secured by real estate;
  - g) Providing promissory notes, financial statements and corporate resolutions that contained false and misleading information to FNB, the investors' agent.
- RESPONDENTS provided the promissory notes, financial statements and

corporate resolutions to FNB with the knowledge that FNB would not release the investors' funds without the documentation;

- h) Utilizing the funds of later investors to pay off earlier investors without informing any investors of that fact;
- i) Failing to inform investors that the securities KERSEY was selling were not recorded on the books of the dealer with whom she was registered; and
- j) Soliciting orders or offering to sell securities without informing investors that KERSEY was not registered as a securities salesman;

24. This conduct violates A.R.S. § 44-1991.

## **VII.**

### **REQUESTED RELIEF**

The Division requests that the Commission grant the following relief against each respondent:

- 1. Order RESPONDENTS to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;
- 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from their acts, practices or transactions, including without limitation a requirement to make restitution pursuant to A.R.S. § 44-2032;
- 3. Order RESPONDENTS to pay the state of Arizona an administrative penalty of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
- 4. Order any other relief that the Commission deems appropriate and authorized by law.

## **VIII.**

### **HEARING OPPORTUNITY**

In accordance with A.R.S. § 44-1972 and A.A.C. R14-4-306, RESPONDENTS are notified that each respondent is afforded an opportunity for a hearing only by filing a written request for a hearing and cover sheet with Docket Control, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, Arizona 85007, within 10 days after service of this Notice. RESPONDENTS are further

1 notified that a cover sheet must accompany all filings. Failure to use the cover sheet may result in the  
2 delay of processing or the refusal to accept documents. RESPONDENTS may obtain a copy of the cover  
3 sheet by calling Docket Control at (602) 542-3477.  
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5 The date set for the hearing shall be within 15 to 30 days after the request for the hearing has been  
6 docketed, unless otherwise provided by law, stipulated by the parties, or ordered by the Commission.  
7 Any respondent who does not request a hearing within the time prescribed is subject to the Commission  
8 issuing an order against that respondent containing such relief as the Commission deems appropriate,  
9 including but not limited to the relief requested above.

10 Persons with a disability may request a reasonable accommodation such as a sign language  
11 interpreter, as well as request this document in an alternative format, by contacting Cynthia Mercurio-  
12 Sandoval, ADA Coordinator, voice phone number 602/542-0838, e-mail [csandoval@cc.state.az.us](mailto:csandoval@cc.state.az.us).  
13 Requests should be made as early as possible to allow time to arrange the accommodation.

14 Dated this 1<sup>st</sup> day of June, 2000.

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17 Mark Sendrow  
18 Director of Securities  
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